

Senate Engrossed

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 201

SENATE BILL 1224

AN ACT

AMENDING SECTION 42-12004, ARIZONA REVISED STATUTES; AMENDING TITLE 42, CHAPTER 13, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 10; RELATING TO VALUATION OF TIMESHARE PROPERTY.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-12004, Arizona Revised Statutes, is amended to
3 read:

4 42-12004. Class four property

5 A. For purposes of taxation, class four is established consisting of:

6 1. Real and personal property and improvements to the property that
7 are used solely as leased or rented property for residential purposes, that
8 are not included in class one, two, three, six, seven or eight and that are
9 valued at full cash value.

10 2. Child care facilities that are licensed under title 36, chapter 7.1
11 and that are valued at full cash value.

12 3. Real and personal property and improvements to property that are
13 used to operate nonprofit residential housing facilities that are structured
14 to house or care for persons who are handicapped or sixty-two years of age
15 or older and that are valued at full cash value.

16 4. Real and personal property and improvements that are used to
17 operate licensed residential care institutions or licensed nursing care
18 institutions that provide medical services, nursing services or health
19 related services and that are structured to house or care for persons who are
20 handicapped or sixty-two years of age or older and that are valued at full
21 cash value.

22 5. Real and personal property consisting of no more than four rooms
23 of owner-occupied residential property that are leased or rented to transient
24 lodgers at no more than a fifty per cent average annual occupancy rate,
25 together with furnishing no more than a breakfast meal, by the owner of the
26 property and that is valued at full cash value.

27 6. Real and personal property consisting of residential dwellings that
28 are maintained for occupancy by agricultural employees as a condition of
29 employment or as a convenience to the employer, that is not included in class
30 three and that is valued at full cash value. The land associated with these
31 dwellings shall be valued as agricultural land pursuant to chapter 13,
32 article 3 of this title.

33 7. Real property and improvements to property constituting common
34 areas that are valued pursuant to chapter 13, article 9 of this title.

35 8. REAL AND PERSONAL PROPERTY THAT IS DEFINED AS TIMESHARE PROPERTY
36 BY SECTION 32-2197 AND VALUED PURSUANT TO CHAPTER 13, ARTICLE 10 OF THIS
37 TITLE, EXCEPT FOR ANY PROPERTY USED FOR COMMERCIAL, INDUSTRIAL OR TRANSIENT
38 OCCUPANCY PURPOSES AND INCLUDED IN CLASS ONE TO THE EXTENT OF THAT USE.

39 B. Subsection A, paragraphs 3 and 4 of this section shall not be
40 construed to limit eligibility for exemption from taxation under chapter 11,
41 article 3 of this title.

42 Sec. 2. Title 42, chapter 13, Arizona Revised Statutes, is amended by
43 adding article 10, to read:

ARTICLE 10. TIMESHARE PROPERTY

42-13451. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ACCOMMODATION" MEANS ANY APARTMENT, CONDOMINIUM OR COOPERATIVE UNIT, CABIN, LODGE, HOTEL OR MOTEL ROOM OR OTHER PRIVATE OR COMMERCIAL STRUCTURE CONTAINING TOILET FACILITIES THAT IS DESIGNED AND AVAILABLE FOR USE AND OCCUPANCY AS A RESIDENCE BY ONE OR MORE INDIVIDUALS AND THAT IS INCLUDED IN THE OFFERING OF A TIMESHARE PLAN.

2. "ASSOCIATION" MEANS ANY ORGANIZED BODY CONSISTING OF THE PURCHASERS OF INTERESTS IN A TIMESHARE PLAN.

3. "DEVELOPER" MEANS EITHER OF THE FOLLOWING:

(a) ANY PERSON, CORPORATION, PARTNERSHIP, LIMITED LIABILITY COMPANY, TRUST OR OTHER ENTITY, OTHER THAN A SALES AGENT, THAT CREATES A TIMESHARE PLAN OR IS IN THE BUSINESS OF SELLING TIMESHARE INTERESTS OR EMPLOYS SALES AGENTS TO SELL TIMESHARE INTERESTS.

(b) ANY PERSON OR ENTITY THAT SUCCEEDS TO THE INTEREST OF THE DEVELOPER BY SALE, LEASE, ASSIGNMENT, MORTGAGE OR OTHER TRANSFER IF THE PERSON OFFERS AT LEAST TWELVE TIMESHARE INTERESTS IN A PARTICULAR TIMESHARE PLAN AND THE PERSON IS IN THE BUSINESS OF SELLING TIMESHARE INTERESTS OR EMPLOYS SALES AGENTS TO SELL TIMESHARE INTERESTS.

4. "MANAGING ENTITY" MEANS THE ASSOCIATION OR OTHER PERSON THAT UNDERTAKES THE DUTIES, RESPONSIBILITIES AND OBLIGATIONS OF THE MANAGEMENT OF A TIMESHARE PLAN.

5. "PROMOTION" MEANS A PLAN OR DEVICE, INCLUDING ONE INVOLVING THE POSSIBILITY OF A PROSPECTIVE PURCHASER RECEIVING A VACATION, DISCOUNT VACATION, GIFT OR PRIZE, USED BY A DEVELOPER OR THE DEVELOPER'S EMPLOYEE, OR ON THE DEVELOPER'S BEHALF BY AN AGENT OR THE AGENT'S EMPLOYEE, AN INDEPENDENT CONTRACTOR OR THE INDEPENDENT CONTRACTOR'S EMPLOYEE IN CONNECTION WITH THE OFFERING AND SALE OF TIMESHARE INTERESTS IN A TIMESHARE PLAN.

6. "TIMESHARE INTEREST" INCLUDES EITHER A TIMESHARE ESTATE OR A TIMESHARE USE.

7. "TIMESHARE PROPERTY" MEANS ONE OR MORE ACCOMMODATIONS SUBJECT TO THE SAME TIMESHARE INSTRUMENT, TOGETHER WITH ANY OTHER PROPERTY OR RIGHTS TO PROPERTY APPURTENANT TO THOSE ACCOMMODATIONS.

8. "TRANSIENT OCCUPANT" MEANS ANY PERSON WHO OCCUPIES AN ACCOMMODATION IN A TIMESHARE PROPERTY AND PROVIDES RENTAL INCOME TO THE DEVELOPER OR ASSOCIATION TO OCCUPY THE ACCOMMODATION. TRANSIENT OCCUPANT DOES NOT INCLUDE ANY PERSON WHO USES AN ACCOMMODATION AS A PROMOTION, TIMESHARE INTEREST OR EXCHANGE PROGRAM.

42-13452. Computing valuation

A. EXCEPT AS PROVIDED BY SUBSECTION B, THE COUNTY ASSESSOR SHALL DETERMINE THE VALUATION OF TIMESHARE PROPERTY BASED ON THE ORIGINAL GROSS SALE'S PRICE OF THE TIMESHARE INTERESTS OF THE TIMESHARE PROPERTY TO A BUYER. IF THERE ARE INSUFFICIENT ORIGINAL SALES, THE COUNTY ASSESSOR MAY USE THE SALES OF COMPARABLE TIMESHARE INTERESTS. WHEN USING THE ORIGINAL GROSS SALES

1 PRICE OF THE TIMESHARE INTERESTS, THE COUNTY ASSESSOR SHALL DEDUCT A
2 REASONABLE AMOUNT REPRESENTING NONREALTY COMPONENTS OF THE ORIGINAL GROSS
3 SALES PRICE. THE DEDUCTIONS MAY INCLUDE EXTRAORDINARY INITIAL MARKETING
4 COSTS, BUSINESS GOING CONCERN VALUE, EXCESS SALES COMMISSION COSTS, UNUSUAL
5 FINANCING, TRANSACTIONS THAT ARE NOT AT ARMS LENGTH, ATYPICAL DEVELOPER
6 RISKS, EXTENDED MARKETING TIME, THE VALUE OF ANY PERSONAL PROPERTY AND OTHER
7 NONREALTY COMPONENTS, INCLUDING VACATION CONVENIENCES AND SERVICES, CLUB
8 MEMBERSHIPS, EXCHANGE PROGRAMS AND UNUSUAL CLOSING COSTS. THE AMOUNT OF THE
9 DEDUCTIONS SHALL BE PRESUMED TO BE SIXTY-FIVE PER CENT OF THE ORIGINAL GROSS
10 SALES PRICE OF THE TIMESHARE INTEREST, EXCEPT THAT THE PRESUMPTION IS
11 REBUTTABLE BY THE COUNTY ASSESSOR OR THE MANAGING ENTITY.

12 B. IF THE VALUE OF THE TIMESHARE INTERESTS CAN BE APPROPRIATELY
13 DETERMINED BY USING RESALE PRICES OF THE TIMESHARE INTERESTS FOR THE
14 TIMESHARE PROPERTY, THE COUNTY ASSESSOR SHALL DETERMINE THE VALUE OF THE
15 TIMESHARE PROPERTY BASED ON THE RESALE PRICES OF THE TIMESHARE INTERESTS. IF
16 THERE ARE INSUFFICIENT RESALE PRICES, THE COUNTY ASSESSOR MAY USE RESALE
17 PRICES OF COMPARABLE TIMESHARE INTERESTS. WHEN USING THE RESALE PRICE, THE
18 COUNTY ASSESSOR SHALL DEDUCT FROM THE RESALE PRICE THE NONREALTY COMPONENTS,
19 INCLUDING:

20 1. ATYPICAL COSTS ASSOCIATED WITH THE RESALE, INCLUDING MARKETING
21 COSTS, HOLDING COSTS, COMMISSIONS AND FINANCING COSTS.

22 2. THE VALUE OF ANY PERSONAL PROPERTY AND RIGHTS ASSOCIATED WITH THE
23 TIMESHARE INTEREST BEING RESOLD.

24 C. IF THE COUNTY ASSESSOR REBUTS THE PRESUMPTION IN SUBSECTION A, THE
25 COUNTY ASSESSOR, ON OR BEFORE MAILING THE NOTICE OF VALUATION, SHALL NOTIFY
26 THE MANAGING ENTITY OF THE REASON FOR THE DISAPPROVAL AND ESTABLISH THE
27 METHODOLOGY THE COUNTY ASSESSOR WILL USE IN DETERMINING THE VALUE OF THE
28 TIMESHARE PROPERTY.

29 42-13453. Timeshare use form

30 A. ON OR BEFORE SEPTEMBER 30 OF EACH YEAR, EACH MANAGING ENTITY SHALL
31 FILE WITH THE COUNTY ASSESSOR A TIMESHARE USE FORM, PRESCRIBED BY THE
32 DEPARTMENT, FOR EACH TIMESHARE PROPERTY. THE FORM SHALL CONTAIN:

33 1. THE NAME AND MAILING ADDRESS OF THE MANAGING ENTITY.

34 2. THE TOTAL NUMBER OF ACCOMMODATIONS INCLUDED WITHIN THE MANAGING
35 ENTITY'S TIMESHARE PROPERTY AND THE TOTAL NUMBER OF AVAILABLE NIGHTS FOR ALL
36 ACCOMMODATIONS.

37 3. THE TOTAL NUMBER OF NIGHTS FOR ALL ACCOMMODATIONS THAT WERE USED
38 BY A TRANSIENT OCCUPANT DURING THE REPORTING YEAR.

39 4. THE ESTIMATED ORIGINAL GROSS SALES PRICE OF ANY TIMESHARE INTEREST
40 IF AN AFFIDAVIT OF LEGAL VALUE IS NOT REQUIRED PURSUANT TO SECTION 11-1133.
41 THE ESTIMATED ORIGINAL GROSS SALES PRICE SHALL BE DETERMINED BY EQUATING THE
42 ACTUAL SALES PRICE FOR A TIMESHARE INTEREST TO AN ESTIMATED SALES PRICE FOR
43 THE TIMESHARE INTEREST ON A WEEKLY USE BASIS.

1 B. THE COUNTY ASSESSOR SHALL MAIL THE TIMESHARE USE FORM TO THE LAST
2 KNOWN MAILING ADDRESS OF THE MANAGING ENTITY ON OR BEFORE AUGUST 1 OF EACH
3 YEAR.

4 C. IF THE MANAGING ENTITY DOES NOT FILE THE TIMESHARE USE FORM, THE
5 MANAGING ENTITY RETAINS ITS RIGHT TO APPEAL THE CLASSIFICATION PURSUANT TO
6 CHAPTER 16 OF THIS TITLE.

7 D. IF THE TRANSIENT OCCUPANT USE OF THE TIMESHARE PROPERTY WAS LESS
8 THAN TEN PER CENT OF ALL AVAILABLE NIGHTS FOR ALL ACCOMMODATIONS DURING THE
9 REPORTING PERIOD, THE COUNTY ASSESSOR SHALL TREAT THE TIMESHARE PROPERTY AS
10 IF NO TRANSIENT OCCUPANT USE OCCURRED ON THE PROPERTY.

11 42-13454. Managing entity as agent of owner

12 A. EXCEPT AS PROVIDED IN SUBSECTION B, FOR THE PURPOSE OF AD VALOREM
13 TAXATION THE MANAGING ENTITY IDENTIFIED ON THE TIMESHARE USE FORM IS
14 CONSIDERED TO BE THE TAXPAYER AS AGENT OF THE PERSON WHO OWNS THE TIMESHARE
15 PROPERTY.

16 B. FOR THE PURPOSE OF AN APPEAL PURSUANT TO CHAPTER 16 OF THIS TITLE,
17 THE MANAGING ENTITY MAY BE CONSIDERED THE AGENT OF THE PERSON WHO OWNS THE
18 TIMESHARE PROPERTY.

APPROVED BY THE GOVERNOR MAY 9, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 9, 2002.



Passed the House May 2, 2002,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 28, 2002,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Norma Lowe
Asst. Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

6 day of May, 2002

at 12:30 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 9 day of

May, 2002,

at 1:57 o'clock P M.

[Signature]
Governor of Arizona

S.B. 1224

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 9 day of May, 2002

at 3:27 o'clock P M.

[Signature]
Secretary of State